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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. _____

DONALD E. TYLER,

Petitioner

v.

HARTFORD FIRE INSURANCE COMPANY, COLORADO MEDICAL SOCIETY, WARREN & SOMMER, INC., INSTITUTE FOR CORRECTIVE PRACTICE, HERBERT ROTHENBERG, M.D., WILFRED STEDMAN, M.D., JAMES A. HENDERSON, M.D., JOSEPH H. POYNTER, M.D., CARL McLAUTHLIN, M.D., GALEN MARKS, M.D., ROBERT LARSEN, M.D., WILLIAM BUCKMAN, THOMAS H. MITCHELL, PETER PRYOR, CHARLOTTE PELLETIER, JEAN KOEHLY, BERNADENE POST, GWEN STIEBER, GRANT MILLER, M.D., RICHARD EVANS, TERRY FIELDS, JOHN MOTT, ST. PAUL INSURANCE COMPANIES, AND BRIGHTON COMMUNITY HOSPITAL ASSOCIATION.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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QUESTIONS PRESENTED

1. Did the District Court abuse discretion, error, and exceed jurisdiction in ordering the plaintiff-petitioner to submit a "cost" bond in the amount of $48,000.00 for purposes of defendants, and in ordering dismissal of this case, and with prejudice, because the petitioner refused to submit such a bond ?

2. Did the District Court error, abuse discretion, and exceed jurisdiction by entertaining defendants' motions to assess their attorney fees against the plaintiff-petitioner maintaining that threat against the petitioner for lawful use of the federal court and in denying petitioner's motion to strike such motions?

3. Did the District Court error, abuse discretion, and exceed jurisdiction by imposing impossible conditions for the

plaintiff-petitioner to maintain this lawsuit including by ordering:

(a) the petitioner to draft a complaint not based upon and without the grievances of his complaint filed,

(b) dismissal of selected allegations of the complaint,

(c) striking of parts and all of the complaint,

(d) a "more definite statement" which in reality is a bill of particulars including facts in sole knowledge of defendants,

(e) a complaint with separate counts and claims as to each defendant, and particularly when the claim is for joint and several liability and for conspiracy by these 24 defendants and many other persons,

(f) denying motions of the petitioner to compel discovery, which included any and all discovery from most defendants,

(g) stay of discovery,

(h) requiring the petitioner, appearing pro se from Oregon, to confer with counsel of defendants prior to submitting motions to compel discovery, and

(i) imposing the impossible condition of submission of a complaint of the grievances of the present complaint which would be subjectively intelligible to the District Court without objective standards?

4. Did the District Court error, abuse discretion, and exceed jurisdiction in denying petitioner's motion to stay proceedings pending time for the petitioner to seek review by this Supreme Court by writ of certiorari to the Court of Appeals for the Tenth Circuit of its refusal to issue writ of mandamus or prohibition to grant relief requested herein from oppressive orders

which resulted in dismissal and the unrecoverable damage therefrom?

5. Have the presiding Judge of the district court and Judges of the U.S. Court of Appeals for the Tenth Circuit illegally and unlawfully closed the federal courts to this petitioner in violation of his common law rights, in violation of the purpose of the Declaration of Independence, in violation of his rights guaranteed by the preamble, 1st, 5th, and 7th Amendments and Art. III, sec. 2, Art. IV, sec. 2 of the U.S. Constitution, and in violation of the purposes of 13 U.S.C. § 241 and 42 U.S.C. §§ 1983, 1985, and 1986?

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DONALD E. TYLER

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HARTFORD FIRE INSURANCE COMPANY, COLORADO MEDICAL SOCIETY, WARREN & SOMMER, INC., INSTITUTE FOR CORRECTIVE PRACTICE, HERBERT ROTHENBERG, M.D., WILFRED STEDMAN, M.D., JAMES A. HENDERSON, M.D., JOSEPH H. POYNTER, M.D., CARL McLAUTHLIN, M.D., GALEN MARKS, M.D., ROBERT LARSEN, M.D., WILLIAM BUCKMAN, THOMAS H. MITCHELL, PETER PRYOR, CHARLOTTE PELLETIER, JEAN KOEHLY, BERNADENE POST, GWEN STIEBER, GRANT MILLER, M.D., RICHARD EVANS, TERRY FIELDS, JOHN MOTT, ST.

PAUL INSURANCE COMPANIES, AND BRIGHTON COMMUNITY HOSPITAL ASSOCIATION, Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Donald E. Tyler, petitioner, prays that a writ of certiorari issue to review the judgment of the U.S. District Court for the District of Colorado entered in the above entitled case on April 28, 1982, which is in the U.S. Court of Appeals for the Tenth Circuit, appeal pending.

OPINIONS BELOW

Petitioner's motion to alter or amend judgment is in Appendix A, infra, pages A-1 through A-6. Final judgment

denying petitioner's motion to alter or amend judgment is in Appendix A, infra, pages A-7 through A-9. Reporter's transcript of hearing in which order of dismissal issued is in Appendix A, pages A-10 through A-44. Petitioner's waiver of hearing, mailed certified with return acknowledgement of receipt received by the court April 19, 1982, but filed April 26, 1982, referred to in aforementioned transcript is in Appendix A, pages A-45 through A-49. Petitioner's response to motions to enter judgment is in Appendix A, pages A-50 through A-53. Petitioner's motion to strike motion for attorney fees is in pages A-54 through A-57. Reporter's transcript of proceedings February 17, 1982, in which cost bond and other impossible conditions to maintain the action were ordered is in Pages A-58 through A-90. Judgment and order of dismissal entered May 25, 1982, after notice of appeal, are at pages A-188 and A-190.

JURISDICTION

Final judgment was entered April 28, 1982. Notice of Appeal to the U.S. Court of Appeals for the Tenth Circuit was timely filed in the District Court on May 24, 1982, and in the U.S. Court of Appeals on May 25, 1982. (Page A-203) The record was received in that Court on June 8, 1982. (Page A-206) Jurisdiction in the Supreme Court is based upon 28 U.S.C. §§ 1254(1) and 2101(e) and Supreme Court Rule 18. It is submitted that the closure of federal courts to this petitioner and to anyone else in the choosing of judges of a U.S. District Court and with approval of judges of the Court of Appeals is of such imperative public importance as to justify deviation from usual appellate process. Open courts and trial by jury were of such importance as to be demanded of the King of England at Runnymede in 1215 and presented in 1776 in the Declaration of Independence.

Those rights were guaranteed in the Bill of Rights. This Court deviated from normal appeal procedure for a case of similar nature but much less far reaching, Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541, 93 L.Ed. 1528, 69 S.Ct. 1221 (1948). The closure of the federal courts to the petitioner was done under color of state statutes concerning use of courts of the State of Colorado by non-residents of the state and penalties that could be imposed for abuse of use of state courts. The court ordered the plaintiff-petitioner to post a $48,000 bond for purposes of defendants and threatened award of attorney fees to defendants. He also ordered impossible conditions including restrictions as to the grievances he would allow in the complaint. The issues herein have already been presented to the Tenth Circuit Court of Appeals. It denied petition for writ of mandamus or prohibition

to prevent dismissal of this case based upon the aforementioned abusive orders. Both the District Court and the Court of Appeals denied motions to stay proceedings in this case for time for the petitioner to seek review by writ of certiorari by this Court of that Appeal Court decision. The appeal has obviously been erroneously predecided and will waste time and money. Time is of essence to the petitioner and to other citizens who may similarly be denied use of the courts, and as here, after expending considerable time and money. The petitioner continues to be denied the right to practice medicine and the public is being denied his services as long as this and related cases are in dispute. Further, the case subject of this petition is concerned with a conspiracy which interferes with and prevents justice in essentially every

case in state and federal courts in Colorado alleging medical malpractice.

CONSTITUTIONAL PROVISIONS, STATUTES INVOLVED

The U.S. Constitution provides in pertinent parts:

Preamble: We the People...in Order to... establish Justice,... and secure the Blessings of Liberty ...

Article III, section 2: The judicial power (of the United States) shall extend to all cases ...arising under this Constitution, the Laws of the United States, ... between Citizens of different States ...

ARTICLE IV, section 2: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the Several States.

Amendment I: Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances.

Amendment IV: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and

particularly describing the place to be searched, and the persons or things to be seized.

Amendment V : No person shall be ... deprived of life, liberty, or property, without due process of law; ...

Amendment VII : In Suits at common law, ... the right of trial by jury shall be preserved, and no fact tried by a jury, shall otherwise be re-examined in any Court of the United States, than according to the rules of common law.

Amendment VIII : Excessive bail shall not be required, no excessive fines imposed, ...

Amendment XIV : ... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. ...

Title 15 U.S.C. provides in pertinant part:

§ 1. Every contract, combination in the form of trust or otherwise, or conspirac y in restraint of trade or commerce among the several states ...is hereby declared illegal. ...

§ 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any person or persons, to monopolize any part of the trade or commerce among the several States ... shall be deemed guilty of a felony ...

§ 15. Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. The court may award under this section ... interest on the actual damages for the period beginning on the date of service of such person's pleading ... the court shall consider only--
(1) ...acted intentionally for delay, or... in bad faith;
(2) ...dilatory behavior...
(3)...delaying the litigation or increasing the cost thereof.

Chapter 13 U.S.C.S. § 241 provides:

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder hs free exercise or enjoyment of any right or privilege so secured--
They shall be fined not more than $10,000 or imprisoned not more than ten years, or both;
...

Title 42 U.S.C provides in pertinent parts:

§ 1983. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

§ 1985. ...(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property ...; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws; (3)... the party so injured or deprived may have an action for the recovery of damages,...

§ 1986. Action for neglect to prevent conspiracy. Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section (42 U.S.C. § 1985), are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; ...

Colorado Revised Statutes, 1973, provide in pertinent parts:

10-4-109. Non renewal of medical malpractice policies. (1) No insurer shall refuse to renew a policy of medical malpractice insurance unless...advance notice...

12-43.5-102. Establishment of review committee - function. (1) A review committee may be established pursuant to this section to review and evaluate the quality of care being given patients by any physician ... to protect patients against the unauthorized, unqualified, and improper practice of such physician.
(2)...Such a committee may be authorized only by: ... (d) A society or an association of physicians whose membership includes not less than one-third of the medical doctors or doctors of osteopathy licensed...
(3)(a) ... An investigation may relate...or any other matter affecting the quality of care

provided.
(b) (I) If the findings of the investigation indicate substantial lack in the quality of care ...the review committee shall hold a hearing... (II) The physician allegedly offering substandard care shall be notified of such a hearing... (c) After such hearing, the review review committee shall make any recommendations,..to the governing board of the hospital or as provided by written bylaws of the hospital or by federal law or regulation . A copy of such recommendations shall be given to the physician allegedly offering substandard care, and he shall have the right to appeal the decision of the review committee to the governing board or other body to which the recommendations are made. (emphasis added)
(Effective date of paragraphs (2)(d) and (3) (a) is July 1, 1977 , Colo. Sess. L. 1977, p. 667.)

13-16-101. Security for costs. In all actions ...where the plaintiff...is not a resident of this state...before he institutes such suit shall file ...an instrument in writing, of some responsible person being a resident of this state,...whereby such person shall acknowledge himself bound to pay...all costs which may accrue in such action either to the opposite party or to any of the officers of such courts...

13-16-10 . Motion to require cost bond. If such action is commenced without filing such instrument of writing...,or if, in any case, the court is satisfied that any plaintiff is unable to pay the costs of suit, or that he is so unsettled as to endanger the officers of the court with respect to their legal demands, it is the duty of the court, on motion of the defendant or any officer of the court, to rule the plaintiff, on or before the day in such rule named, to give

security for the payment of costs in such suit. If such plaintiff neglects or refuses, on or before the day in such rule named, to file such instrument, the court, on motion, shall dismiss the suit. ...

13-17-101 Attorney fees. (1) Subject ot the provisions of subsections (2) and (3) of this section, in any suit involving money damages in any court of this state, the court shall award, ...in addition to any costs otherwise assessed reasonable attorey fees. (emphasis added) ... (3) The court shall not award attorney fees among the parties unless it finds that the bringing, maintaining, or defense of the action against the party entitled to such award was frivolous or groundless. ...

13-90-107. Who may not testify without consent - records. ... (d) A physician or surgeon duly authorized to practice... shall not be examined without the consent of his patient...,but this paragraph (d) shall not apply to: ... (III) A review of a physician's services by any of the following: ... (D) A peer review committee of a society or association of phsicians... and only if ...said physician has signed a release authorizing such review;...

(Effective date of III (D) is July 1, 1976)

18-4-412. Theft of medical records or medical information - penalty.

(1) Any person who, without proper authorization, knowingly obtains a medical record or medical information with the intent to appropriate the medical record or medical information to his own use or to the use of another, who steals or discloses to an unauthorized person a medical record or medical information, or who without

authority, makes or causes to be made a copy of a medical record or medical information commits theft of a medical record or medical information. ...
(3) Theft of a medical record or medical information is a class 5 felony.

STATEMENT OF CASE

The complaint is printed in Appendix A, pages A-91 through A-187. This case is related to other pending petitions for writ of certiorari in this Court, numbers 81-2007 and 81-2139. With no limit on their methods, in and out of court, there is no reason to expect insurance company defendants to pay their lawful obligations. The State Courts continue even without jurisdiction in the case subject of 81-2007 rather than require the insurance companies to pay judgment on the jury verdict. The defendants admit that, or flaunt power, by not answering the petition. The federal courts of the Tenth Circuit are now also closed to the petitioner unless there is remedy by this Court.

The plaintiff, the petitioner here, is a Mayo Clinic-trained urologist certified by the American Board of Urology. His established medical practice in Colorado was destroyed and he has been unable to work at his chosen profession since 1977 and continuing as a result of the illegal acts committed by the defendants and co-conspirators intentionally for the unlawful purpose of malicious interference with his medical practice. This included unlawful obstruction and interference with lawsuits for damages and designed to restore his ability to practice medicine and outrageous conduct to intentionally cause him emotional distress. The action is complex but the complaint clearly states the common law causes of action. The claims for interference with business and outrageous conduct involve many wrongful acts, several ways in which those acts were wrongful and

unlawful including libel, perjury, subornation of perjury, breaches of fiduciary duties, breaches of contracts, abuses of purposes of committees of the state medical society operating under color of State statutes, deceit, fraud, harassment, intimidation, oppression, malicous abuse of power of uniformed police, and includes unlawful oppression and abuse of witnesses and potential witnesses of the plaintiff, and abuses of persons doing business with the petitioner, violations of the 1st, 4th, 5th, 7th, 9th, and 14th Amendment rights of the plaintiff-petitioner, and violations of Title 15 of the United States Code causing damage to the petitioner. It involves claims under Title 15 and title 42 §§ 1983, 1985 and 1986 of the United States Code and for violation of Chapter 13 § 241, U.S.C.S. See Bivens v. Six Unknown named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L. Ed. 2d 619 (1971)

Action was brought against defendants Marks, Larsen and others in 1975, complaint of which is Exhibit B of the complaint of this case. (Pages A- 146 through A-151). That case arose primarily as a result of Marks, Larsen, and others' scheduling of a disciplinary hearing of the petitioner admitted by them to be without charges . Notice of the hearing was indequate stating it was to be about the petitioner's conduct in the emergency room . (Exhibits C and D of Exhibit B of complaint, pages A- 147 through A- 149).

There was and is no legitimate defense for Marks and Larsen in that case. Documentary evidence and admissions proved they scheduled the hearing without charges, breached medical staff bylaws, gave inadequate and untimely notice of a hearing, and acted against the petitioner illegally depriving him of his right to work on call duty in the emergency room

in 1974 and prevented his reappointment to the Brighton Hospital and appointment to other hospital medical staffs for 1975 and thereafter. The medical society and Hartford joined in after that, contrary to garbling of facts by the Colorado Court of Appeals. (Petition 81-2139).

Marks and Larsen were insured for the foregoing lawsuit for one million dollars each by Hartford. Colorado Medical Society has a vested interest because of a contract, subject to Title 15 U.S.C. action herein, which includes refund of premiums to its insured members that are unused to pay Colorado claims. To gain unlawful help in defending Marks and Larsen, Hartford's claim adjuster, Francis Fry, published to Robert Brittain, M.D., all of its files concerning the petitioner including libelous documents, correspondence among attorneys, Marks, Larsen, Fry and other Hartford personnel, hospital records of

patients of Tyler unlawfully in its possession (codified as a felony by C.R.S. 1973, 18-4-412, supra) supplied to it in breach of contracts between patients, Tyler, and Hospital; and the files included other matter alleged.

Brittain, a member of the Risk Management Committee of the Colorado Medical Society, and in the employ of the medical society, republished the contents of aforementioned documents in committee meetings in 1976 at which non-physicians who were not members of the committee were present. Defendant Pryor also republished certain libelous documents to members of the committee for conspiratorial purposes as alleged. The committee had no authority to act under C.R.S. 1973, 12-43.5-102, supra, if at all, before the effective date of July 1, 1977, of amendment of that statute, in spite of finding of such without argument by the Colorado Court of Appeals. (petition for writ of cert. 81-2139)Colo. Sess. L., 1977, p. 667.

The pending cases instituted by the petitioner as plaintiff did not involve quality of medical care, admitted by defendants. That was the only possible jurisdiction of the committee by any rule or color of statute, in effect or not, for the committee to examine medical records of patients cared for by the petitioner. Defendant members of the committee have essentially admitted in depositions in related cases that the primary function of the committee was to aid Hartford in defending lawsuits against physicians insured in the Hartford-Medical Society program. Subject to Title 15, U.S.C., the combination to interfere with justice by damage to the petitioner in his profession for suing physicians insured in the program and the oppression of any physicians who might testify adversely to such insured physicians in this and other lawsuits is

complained of.

As a proximate result of the foregoing, and pursuant to conspiracy as alleged and to cause the petitioner emotional distress, defendants wrote the petitioner a series of abusive, threatening, intimidating, oppressive deceitful letters appended as exhibits to the complaint. They in effect demanded that the petitioner grant them permission to examine all hospital medical records of his patients. The purported deceitful, fraudulent reason for the demand, on its face not in the jurisdiction of the committee, was to determine whether records of patients seen by the petitioner three years previously in 1974, in Brighton Community Hospital, and particularly in the emergency room, were sufficient for defensive legal purposes in the hypothetical event the petitioner were sued by any such persons. Defendant committee members

have admitted that they had no reason to believe such suits would occur, and that they understood the statute of limitations for such suits was two years. When the letters were written in 1977, the committee knew the petitioner was not practicing in any emergency room. Emergency room practice was unrelated to his insurance in 1977 and for 1978. The interest of the committee members was deceitfully connected with the lawsuit against Marks and Larsen which they had discussed in meetings. The inference is clear that the committee members and employees and agents of Hartford acted against the petitioner for various purposes and motives including: (1) they wanted to search unreasonably in a "fishing expedition" for something they hoped might discredit the petitioner in the trial against Marks and Larsen (violating the 4th Amendment); (2) they intentionally acted to

cause the petitioner severe emotional distress; (3) they purposely acted to retaliate against the petitioner for bringing suit against physicians insured by Hartford in the Medical Society program, and (4) they purposely acted to force the petitioner to quit practicing medicine and to leave Colorado.

The letters did not request production of medical records, as claimed by the Colorado Court of Appeals in garbling of facts.(81-2139) If they could coerce the petitioner to grant permission, the defendants obviously planned to obtain the records themselves. They cited C.R.S. 1973, 13-90-107, as amended effective July 1, 1976, that they could examine persons' medical records without their permission. Colo.Sess. Laws, 1976, p. 526. Patients seen by petitioner in 1974 had no reason to believe their contracts for privacy would be violated. If the statute is given retroactive

effect, it is submitted that it violates Article I, section 10 of the U.S. Constitution. The plaintiff was given no valid medical care reason for allowing the committee to examine records. The defendants were attempting to coerce the petitioner to violate the confidences of his patients to satisfy the malicious illegal motives of the defendants. Hartford then imposed the unconcionable condition precedent to any renewal of the petitioner's insurance permission to Hartford for it to examine all medical records of patients cared for by the petitioner in breach of professional ethics, in breach of contracts with patients, in invasions of privacy, and in violation of principles codified as a felony in C.R.S. 1973, 18-4-412, supra. (pages A-163 through 165).

The petitioner did not grant the requested permission. The defendant

committee members then acted without notice of hearing, without charges, and without hearing and determined that the petitioner did not "cooperate," which term they refused to elaborate upon in depositions in a related case. On that basis the committee recommended non-renewal of petitioner's professional liability insurance for 1978. That was clearly without jurisdiction and outside the authority of C.R.S. 1973, 12-43.5-102, supra.

The case also involves other acts as alleged. Damages proximately resulted as alleged.

Discovery was ordered stayed on January 11, 1982, after the plaintiff had attempted to obtain order to compel defendants to comply with discovery requests. On February 17, 1982, the Court ordered (Pages A-58 through A-90):

(1) petitioner to post a bond of $48,000,

(2) dismissal of certain allegations of complaint,

(3) more definite statement,

(4) striking parts and then all of complaint,

(5) separate counts and claims as to each of the 24 defendants, and

(6) denial of patitioner's motions to compel discovery.

The petitioner sought relief from the Court of Appeals for the Tenth Circuit by petition for writ of mandamus and/or prohibition. It was filed March 11, 1982, and denied on March 18, 1982 by the Honorable Robert H. McWilliams and the Honorable William E. Doyle. Motion to the District Court to stay proceedings pending petition to this Court for writ of certiorari to that case was filed March 24, 1982. Motion to order stay of proceedings pending petition to this Court was denied by the Appeals Court on April 20, 1982. On April 21, 1982, the case was dismissed.

Federal issues presented herein have been presented at every stage of proceedings including in the complaint, motions for discovery, in response to motions by defendants, and in motion to amend or alter judgment. The district court recognized the existence of federal issues on February 17, 1982, in denying defendants' motions to stay proceedings pending cases in state courts. (A-67). No other federal issues were ruled upon by the Court.

REASONS FOR GRANTING THE WRIT

A. The Order of Cost Bond and Dismissal of this Case because of noncompliance was a gross abuse of discretion, in excess of jurisdiction, and a gross violation of fundamental Constitutional and Natural Common Law Rights.

It is submitted that citizens of this nation

subscribed to a Declaration of Independence complaining of deprivation of benefits of trial by jury and tenure of judges subject only to the will of the sovereign. It is further submitted that prior to adopting the U.S. Constitution the people required that the common law right to trial by jury for damages be guaranteed in writing in the Bill of Rights. The right of trial by jury for redress of injuries was secured in the Magna Carta in 1215 as a natural common law right of Englishmen. It guaranteed that such use of the courts was to be "freely without sale, fully without any denial, and speedily without delay." BLACKSTONE: Commentaries on the Laws of England, Vol. I, p. 141. This Supreme Court has held that the right to trial for damages is a property not subject to deprivation by any legislature. Angle v.

Chicago, St. Paul, Minneaplis & Omaha Ry. Co., 151 U.S. 1, 38 L.Ed. 55 (1893). Being a property, it is subject to the 5th Amendment as well as to the 7th Amendment.

Right to trial could not be denied by kings; and millions have died believing that was a principle for which they were fighting. But three appointed judges with lifetime tenure have denied that right to the petitioner. Those judges deem it within judicial discretion to require a bond of any arbitrary prohibitive amount of any party as a condition to use the courts as a forum. That is an arbitrary power to close the courts to any party at any time in the choosing of the judge. It is submitted that this is in gross violation of the Constitution, 13 U.S.C. § 241, 42 U.S.C. §§ 1983, 1985, and 1986, supra. Such manifest bias and prejudice can only be due to the petitioner's minority religious affiliation which defendant Mott injected in a related trial.

The Court acted under color of C.R.S. 1973, 13-16-102, supra. The language of the statute and its purpose is clearly related to the interest of Colorado in securing costs in its courts incurred by non-residents of the state. It relates to usual costs allowed such as docket fees and jury fees. Costs incurred in Federal Courts are not within the jurisdiction or interest of the Colorado Legislature. The statute is in obvious violation of Art. IV, sec. 2 of the U.S. Constitution but that need not be addressed in this decision. The statute plainly does not apply to actions in federal courts. Further, the statute does not include bond for discovery costs as the Court here demands, and for fees of defendants' attorneys in any instance. The power to legislate costs, fees, and security of such in federal courts for federal claim actions and for diversity actions is in Congress. Art. III, sec 2, U.S. Constit.

The instant case involves common law claims which encompass claims under federal statutes and involves Citizens of different states. Had Congress intended cost bond to be required of a plaintiff for federal actions, and/or diversity actions in federal courts it would have so legislated.

The order of the District Court does not follow a prior decision of the same court which held that the state statutes relied upon here do not apply to actions in federal courts, National Distillers Prods. Corp. v. Hindech, 10 FRD 229 (D.Colo., 1950).

Requirement of a bond of the plaintiff for purposes of defendants in the amount of $48,000 is inconsistent with the rules of procedure, in conflict with the intent of Congress, and is substantive and not a matter of procedure. Rule 1 provides for inexpensive determination

of actions. The rules further provide for expected predictable fees charged uniformily to all litigants regardless of state of residence. The requirement of a prohibitive bond in this instant case is in conflict with the intent of Congress to encourage private antitrust actions by awarding triple damages and attorney fees to the winning plaintiff. No allowance is made for discovery and attorney fees of defendants. This Supreme Court determined that requirement of a bond is substantive and not procedural. Cohen v. Beneficial Industrial Loan Corp., supra. In that case it was held that the State could close its courts conditioned upon a reasonable bond for statutory derivative stockholder actions. That statute apparently related to costs incurred by the corporation defending against its own stockholders. The State statute involved here concerns costs of

use of state courts, not expenses of persons and corporations defending common law claims and federal claims in federal courts.

No Cause Shown or Found

In the absence of extra-ordinary circumstances motions for cost bonds have been denied. Newell v. O. A. Newton & Son Co., 95 F. Supp. 355 (Dela., 1950). The defendants made no showing and the Court made no finding that this petitioner presented such extra-ordinary circumstances. The Court found (1) the plaintiff-petitioner is a non-resident of Colorado, (2) there are "threads" in the pleadings that the petitioner is unemployed, (3) the suit is complex, (4) the numerous filings, (5) the exigent circumstances with discovery, and (6) the demand is "excessive." (pages A-88 and A-89). The petitioner is apparently penalized because of

mob of defendants, the grossness of their conduct, the large monetary damage inflicted, the many people they have damaged, and their refusals to comply with requests for discovery. Even if the Court found the petitioner unemployed, which it did not, that is not a finding that the petitioner is unable or unwilling to pay for lawful debts when they become due. The petitioner submits that his unemployment and his non-residency are due to the unlawful acts of the defendants, subject of this action. By the Court's reasoning, any powerful oppressive defendant that can maliciously cause a person to become unemployed and make his residence in Colorado undesirable can thereby and thereafter cause the federal courts to be closed to the displaced person.

There is no apparent relationship between the amount demanded and need for a cost bond

in the interest of the court. It is obviously related to the need and desire of the defendants to prevent the access to the courts of the plaintiff, and particularly to prevent a trial by jury. It is submitted that the finding that the demand is "excessive" is in excess of the jurisdiction of the Court, indicates a bias and a pre-judgment, and invades the province of the jury. The order of $48,000 bond is a clear threat of such an award to defendants under some color of authority. The order of $48,000 bond under any color is illogical and unreasonable by simple analysis. If the case were groundless, it would have been summarily dismissed without significant expenses being involved. The request of $96,000 bond by defendants was an obvious admission that their preliminary motions to dismiss, strike, make more definite statements, and refusals to

comply with discovery were frivolous and designed to delay, harass, and cause unnecessary expense. It was an admission that considerable litigation was expected. It clearly indicated the desperation of the super rich defendants for their lack of defense and their need to close the courts to the petitioner. A child could diagnose the situation. The Court denied motions to dismiss for failure to state a claim for which relief can be granted, thereby recognizing that there is no legitimate basis for considering penalizing the plaintiff-petitioner. The verified complaint establishes a prima facie case.

Bond Amount Unreasonable and Arbitrary

No cause was shown and no cause was found for the amount of cost bond ordered. The defendants did not itemize costs for which they sought a bond in the amount of $96,000.00. The Court did not itemize

the basis for the $48,000 bond ordered. It is clear that the amount was determined in an unreasonable, arbitrary manner to be used in any manner to the pleasing of the Court.

Bond for Discovery and Attorney Fees Error

The amount of cost bond ordered, and the reasons, in association with motions to award defendants attorney fees, indicates that it was intended to include anticipated award of attorney fees to defendants and their expenses of discovery. The Colorado statute relied upon, C.R.S. 13-16-102, supra, provides only for usual court costs, not discovery expense and attorneys fees. 20 C.J.S. pp. 455-460; C.R.S. 1973, 13-17-101, supra. Even where a district court had enacted a local rule allowing cost bond, it only applied to costs allowed under Rule 54(d), and did not authorize allowance of attorney fees and expenses to a

successful defendant in an antitrust case. Adams Dairy Co. v. National Dairy Products Corp., 293 F.Supp. 1168 (Mo., 1968). The petitioner submits that there is no authority to award defendants attorney fees or expenses of discovery in any case in federal courts other than pursuant to common law suit for malicious prosecution. 1st, 5th, and 7th Amendments, U.S. Constit. Other courts have held that attorney fees are not allowed in defense of any federal antitrust case even if baseless. Byram Concretanks, Inc. v. Warren Concrete Products Co., 374 F.2d 649 (3rd Circ, 1967); Gillam v. A. Shyman, Inc., 205 F.Supp. 534, (Alaska, 1962); Adams Dairy Co., supra.

B. The Court Errored and Abused Discretion in denying petitioner's motion to strike motions of Defendants to award them attorney fees.

As noted above, there is no legitimate basis for considering awarding defendants

attorney fees or discovery expenses in this case. Motion for attorney fees was made under color and pretense of C.R.S. 1973, 13-17-101, supra. The statute is in derrogation of common law, is penal, and establishes a new liability for use of courts. It must be strictly interpreted. 82 C.J.S. §§ 389, 393, and 394. The statute clearly states that it applies to use of courts of the state. The Colorado legislature has no jurisdiction of use of federal courts. The United States District Court is not a court of the state of Colorado. The District Court refused to strike defendants' motion under color of that statute and indicated that it would countinue to or would again entertain motions for attorney fees. (Page A-38 and A-42). As long as those motions are entertained, or to be allowed, they are a threat to this petitioner's and to anyone else's use of federal courts.

Consistent with the abuse in order of $48,000 bond, the allowance of motions for attorney fees is a threat that the Court will also abuse "discretion" and enter an exorbitant judgment against this plaintiff as punishment and retaliation for bringing and now maintaining this action against these defendants. Motions and claim by any other procedure or pleading for award of attorney fees and/or discovery expenses by defendants must be ordered stricken and not to be allowed by this Supreme Court to remove such threat against this or any other plaintiff for bringing action in any federal court. 1st, 5th, 7th Amendments, U.S. Constit.; 13 U.S.C. § 241; 42 U.S.C. §§ 1983, 1985, 1986.

C. Dismissal of Selected Allegations was without authority and in excess of jurisdiction

Rule 12(b)(6), F.R.C.P., provides for

dismissal for failure to state a claim for which relief can be granted. No rule provides for "dismissal" of particular selected allegations. The district court dismissed paragraphs of the complaint numbered 40-53, 63-68, and 103. (Pages A-69 through A-71). Elimination of those allegations was inappropriate done under any label. Those allegations dismissed under color of Colorado Statute of limitations for actions for libel and slander contain far more than allegations of libel and slander. They are essential all egations of unlawful overt acts upon which the claims of wrongful interference with business and outrageous conduct are based. Other courts have held that the facts and circumstances constituting the cause of action for conspiracy and particularly the acts which constitute the gravamen of the action

must be alleged with particularity. 15A C.J.S. pp. 669,675,681; Hoffman v. Halden 268 F.2d 280 (9th Circ,1959); Powell v. Workmen's Comp. Bd. of State of New York, 327 F.2d 131 (2nd Circ, 1964). Rule 9(b), F.R.C.P., requires all averments of fraud to be stated with particularity. The dismissed allegations include particulars of fraud, deceit, and pretext alleged in paragraphs 61,62,69 and 91.

Bar by statute of limitation is an affirmative defense and must be pleaded. Rule 8(c), F.R.C.P. Statutes of limitation have been held by other courts to not be grounds for dismissal by motion as the district court did here. Baker v. Sisk, 1 FRD 232 (Okla,1938); Topping v. Fry, 147 F.2d 715 (7th circ,1945); Bergeron v. Mansour, 152 F.2d 27 (1st Circ,1945); Smith v. Kent Oil Co., 261 P.2d 149 (Colo,1953)

In dismissing claims of libel and slander as acts in conspiracy to injure business the Court is in conflict with established Colorado law, prior decision of the Court of Appeals for the Tenth Circuit, and with the generally accepted rule. Clark v. Machette, 92 Colo 365, 21 P. 2d 182 (1933); Hughes v. Reed, 46 F. 2d 435 (10th Circ, 1931); 53 C. J. S. p. 983; 12 C. J. p. 612; Rogers v. Rogers, 96 Colo 473, 44 P. 2d 909 (1935); Murto v. Lemon, 19 Colo. App. 314, 75 P. 160 (1903); Equitable Securities v. Johnson, 36 Colo. 377, 85 P. 840 (1906).

The action is not for libel. It is an action for interference with business and outrageous conduct. Action for wrongful interference with business can be based upon statements that are true if made for the purpose of damaging business. U. S. Aluminum Siding Corp. v. Dun & Bradstreet, Inc., 163 F. Supp.

906 (S.D.NY, 1958); Huskie v. Griffin, 74 A. 595 (N.H., 1909).

Paragraph 103 was dismissed with the reason, "Plaintiff has no standing to make claims on behalf of those individuals." (A-71) The plaintiff is obviously suing for his own damages and in behalf of no one else. The doctrine of standing to sue is irrelevant. Associated Industries of New York State v. Ikes, 134 F.2d 694 (2nd Circ, 1943). The allegations of paragraph 103 clearly relate to damage to petitioner's professional practice by intimidation and abuse of those who would otherwise do business with him. Lohse Patent Door Co. v. Fuelle, 114 S.W. 997 (Mo, 1908). It relates to abuse and damage to the plaintiff's witnesses and potential witnesses and the encompassed conspiracy to suborn perjury as a part of the larger conspiracy to injure business. Annot. 31

A. L. R. 3d 1438; Newin Corp. v. Hartford Accident and Indemnity Co., 31 N. Y. 2d 211, 333 N. E. 2d 163 (1975); Robinson v. Missouri Pacific Transp. Co., 85 F. Supp. 235 (W. D. Ark, Hot Springs Div., 1949); 15 C. J. S. p. 1027. Paragraph 103 also relates to conduct maliciously inflicted upon the supporters of the petitioner for the ultimate purpose of intentionally causing the petitioner severe emotional distress.

The dismissal of allegations was without procedural authority and substantively denies the petitioner of right of trial of his grievances and of the issues of the case. 7th Amendment.

D. Striking of Parts and All of the Complaint was without authority, in excess of jurisdiction.

Rule 12 (f) , F. R. C. P., provides, "... the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous

matter." Other courts have held that matter stricken from the complaint must clearly fall within those four categories. Card v. Elmer C. Breur, Inc., 42 F. Supp. 701 (Oh, 1941); Bowles v. Krause Milling Co., 62 F. Supp. 244 (Wis, 1945); Courteau v. Interlake S. S. Co., 1 FRD 429 (MIch, 1940); United States use of Deane Rowley Const. Co. v. Rowley Const. Co., 2 FRD 6 (RI, 1941). The Court made no finding related to the paragraphs stricken, but indicated a reason was "insufficient." (Page A-74). The Court threatens to strike allegations that are "argumentative." (A-75) It is submitted that almost any allegation could be found to be "argumentative." Those are not reasons usually allowed to strike complaint allegations.

The following interpreta tions of Rule 12 (f) made by various courts are in conflict with the acts of the Court here. Striking is a drastic measure to be resorted to only when required for purposes of justice, is not favored, is to

be used sparingly, and the authority is strictly construed. Butler v. Pollard, 482 F.Supp. 847 (Okla, 1979); Fuchs Sugars & Syrups, Inc. v. Amstar Corp., 402 F. Supp. 636 (NY, 1975); Brown & Williamson Tobacco Corp. v. U.S., 201 F.2d 819 (6th Circ, 1953); Augustus v. Bd. of Pub. Instruction, 306 F.2d 862 (5th Circ, 1962); Johnson v. Am. Aviation Corp., 64 FRD 435 (N.D., 1974); Clark v. Atlanta University, Inc., 65 FRD 414 (Ga, 1974). Any doubt as to motion to strike should be resolved in favor of denying the motion. Daughtery v. Firestone Tire and Rubber Co., 85 FRD 693 (Ga, 1980); Schramm v. Krischell, 84 FRD 294 (Conn, 1979). This is particularly true in "big" cases such as antitrust actions. Federated Dept. Stores, Inc. v. Grinnell Corp., 287 F.Supp. 744 (NY, 1968); United States Dental Institute v. Am. Assoc. of Orthodontists, 396 F.Supp.

565(Ill., 1975); Van Dyke Ford, Inc. v. Ford Motor Co., 399 F.Supp. 277 (Wis, 1975); South Side Drive In Co. v. Warner Bros. Distributing Corp., 30 FRD 32 (Pa, 1962). In order to strike it must be clear that the portion stricken has both no bearing on the subject matter of litigation and that its inclusion will unduly prejudice the other party. FRA S.p.A. v. Surg-O-Flex of America, Inc., 415 F.Supp. 421 (NY, 1976); Pittson-Luzerne Corp. v. U.S., 86 F.Supp. 460 (Pa, 1949). Allegations concerning particulars of fraud should not be stricken. Rule 9(b); Canadian Ingersoll-Rand Co. v. D. Loveman & Sons, Inc., 227 F.Supp. 829 (Oh, 1964). Allegations of evidential facts in cases involving complex issues, although unnecessary under rule of brevity, are not stricken if not prejudicial. Randolph Laboratories, Inc. v. Specialties

Development Corp., 62 F.Supp. 897 (NJ, 1945). Allegations providing better understanding of a claim for relief by providing background facts are not to be stricken. Hoffman Motors Corp. v. Alfa Romeo S.P.A., 244 F.Supp. 70 (NY, 1965); U.S. v. Crown Zellerbach Corp., 141 F.Supp. 118 (Ill, 1956); Fuchs Sugars & Syrups, Inc. v. Amstar Corp., supra; U.S. use of Deane Rowley Const. Co., supra; Groves v. Paden City Glass Mfg. Co., 2 FRD 300 (W.Va., 1942). Striking is not to be used to determine disputed substantial questions of law. Augustus v. Bd. of Pub. Instruction, supra.

The Court ordered stricken paragraphs 55, 60, and 75-79 and then the entire complaint. (pages A-75, A-77, A-78). There was no showing or finding whatsoever that the stricken parts were within Rule 12(f). That the court could find that the complaint

could not be dismissed for failure to state a claim (page A-71) and then strike the entire complaint is on its face a gross abuse of discretion, without authority, and in excess of jurisdiction. Other courts have held that striking is not to be used as here to make meaningless or to dismiss all or part of a complaint. Egan v. Pan American World Airways, Inc., 62 FRD 710 (Fla, 1974); Mahoney v. Bethlehem Engineering Corp., 27 F. Supp. 865 (NY, 1939).

E. More Definite Statement was ordered without authority and in abuse of discretion

The motions of defendants were for particulars and requests for details and particularly for facts solely in their knowledge. Bills of particulars were abolished by the 1946 Amendment to Rule 12(e).

It has been found to be an abuse of discretion to use Rule 12(e) to order plaintiff

to amend his complaint which was sufficient to withstand a motion to dismiss. Mitchell v. E-Z Towers, Inc., 269 F. 2d 126 (5th Circ, 1959); Similar, Sopkin v. Missouri Nat'l Life Ins. Co., 222 F. Supp. 984 (Mo, 1963); Floe v. Plowden, 10 FRD 514 (S. Car., 1950); Wishnick v. One Stop Food & Liquor Store, Inc., 60 FRD 496 (Ill., 1973); Hodgson v. Virginia Baptist Hosp, Inc., 482 F. 2d 821 (4th Circ, 1973).

No specific allegations were found by the Court to be unintelligible. There is no reason why all allegations cannot be admitted, denied, or answered that due to lack of information they are denied. That is all that is required as far as Rule 12 (e) is concerned. Ehrman v. U.S., 4 FRD 29 (NY, 1941).

F. Order to Separately State Claims and Counts as to each defendant was arbitrary, unreasonable, in abuse of discretion.

The petitioner was ordered to separately state claims and counts as to each defendant. (Pages A-78, 79, 80). That is inconsistent with the basic nature of the lawsuit. Conspiracy is alleged, and joint and several liability for all acts is alleged. All allegations apply to each and every defendant. As to whether a specific act was committed by a specific defendant, such is specified in the complaint as known by the petitioner. Each defendant has it within his knowledge as to whether he committed acts alleged. The two claims for relief are already alleged in separate counts. See Lowe v. Consolidated Edison Co., 1 FRD 559, 562 (NY, 1940). The order needlessly requires massive, overwhelming paper work and would lengthen the complaint to more than 20 times its present length. The loss of time and expense would be worthless to all parties, except

for its harassment value. See Nagler v. Admiral Corp., 248 F.2d 319 (2nd Circ, 1957).

F. Order to amend the complaint was unreasonable and in excess of jurisdiction

The petitioner submits that the 1st and 7th Amendments guarantee him the right to present his grievances in trial for redress of injuries. This Court denies that right. The Court presented inconsistent criticism of the complaint, and ordered conditions which excluded the petitioner's grievances. It imposed impossible conditions as to the complaint to maintain the lawsuit. The two claims for relief are clearly designated in capital letters. The essential elements of those two claims for relief are clearly alleged. Acts of the defendants, motives for those acts, and damages resulting are plainly alleged in language that is easily understandable.

No mistakes in spelling, grammar, or diction have been cited which then might be corrected. Anyone can state that any writing is unintelligible. By reasonable objective standards, there is no reason that the complaint cannot be understood. The finding that it is unintelligible by the judge is subjective, and the petitioner submits that no objective reason being apparent or found, the finding is arbitary and unreasonable.

The Court complains of the length of the complaint. On the other hand the Court requires more specificity including more specificity of the damage to the petitioner's "trade" due to violations of antitrust laws. (Pages A-73, A-74). The court in Gretener, A.G. v. Dyson-Kissner Corp., 298 F.Supp. 350 (NY, 1969) held that allegation that a defendant violated antitrust laws to the

detriment of the plaintiff and the public and that such violations proximately caused damage to the plaintiff sufficiently alleged a cause of action. The petitioner's complaint supplies the necessary details, even though those details are not in the liking of the court. In other gross inconsistency with Rule 8(a), F.R.C.P., and its criticism of the length of the complaint, the court ordered separate counts and claims as to each defendant. After denial of motions directed to failure to aver time and place, (A-78), the court ordered enlargement of the complaint by requiring the plaintiff to set forth time and place of allegations and particularly those known only to the defendants in the conspiracy. (A-80) The court ordered enlargement of the complaint in requiring details of fiduciary duties and contracts which include particulars already supplied defendants in memoranda

and in answers to interrogatories.

The most frustrating and impossible requirement is the framing of a proper complaint of the issues of this case not subject to dismissal and yet omit basic allegations essential to maintain actions for conspiracy and outrageous conduct which the Court has ordered dismissed and stricken.

G. Motions by petitioner to Compel Discovery were denied in abuse of discretion and in conflict with decisions of this Supreme Court

Defendants refused to answer interrogatories, produce documents, and to appear for depositions. The petitioner was denied any and all discovery from most defendants, and essential discovery from all defendants. This is in conflict with Rules 1, 26, 34, 36, 37, and Conley v. Gibson, 355 U.S. 41, 2 L.Ed.2d 80, 78 S.Ct. 99. Denied discovery included:

(1) identification of real parties who are paying for litigation expenses of defendants, (2) documents published by Hartford to Brittain (paragraphs 40 and 45 of complaint), (3) documents published by Pryor (paragraph 51 of complaint), (4) correspondence about the petitioner and his insurance including that referred to in paragraphs 64-68 copy of which C.R.S. 12-43.5-102(3)(c) mandatorily required defendants to furnish the petitioner. (5) minutes of meetings of the Risk Management Committee, (6) identification of persons attending those meetings, (7) information concerning all physicians whose patients' medical records have been requested for examination by the Risk Management Committee and/or Hartford personnel, (8) records of actions taken against Doctors Hutchinson and Shidler by BCH, and (9) assets and income of each defendant.

No findings were made by the Court upon which denial of motions to compel discovery was based. Since the Court refused to grant the petitioner any discovery requested including order for defendants to appear for depositions, sanctions threatened by the Court (page A-87) for failure to respond to discovery are obviously directed only at the petitioner. Discovery was to have been completed by January 15, 1982. The Court stayed all discovery on January 11, 1982, in the face of depositions noticed to be taken in Colorado on January 13, 1982, by the plaintiff. The order was mailed January 11, 1982, to the plaintiff in Oregon.

Closure of Court Complete

The presiding judge's orders must be considered in entirety to understand the purpose and impact. He ordered the petitioner to post a prohibitive bond in the

amount of $48,000 after determining that the petitioner was probably unemployed. He refused to strike motions to award the defendants attorney fees thereby maintaining a continuing threat of possible award of an exorbitant judgment against the petitioner. He then secured the closure by adding impossible conditions of the complaint which included omission of essential allegations and the grievances of the plaintiff-petitioner. Even if the orders of cost bond and attorneys fees threats are removed, the court will still be closed by the abuses of misapplications of procedural rules. The matter cannot be considered piecemeal. Either there is a right to trial or there isn't. A right to trial is a right to trial of the matters complained of and not the matters suiting the judge.

Order of cost bond, threat of award of attorney fees and discovery expenses against the plaintiff-petitioner, and impossible procedural conditions need to be addressed in totality to correct arbitrary closure of the federal courts to the petitioner and others. This petition should be considered together with petitions #81-2007 and #81-2139 for a more total picture of the conspiracy to close courts.

CONCLUSION

For the foregoing reasons this petition for a writ of certiorari should be granted.

Respectfully submitted,

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